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OFFICE OF PETITIONS

In re Patent of Shrivastava, et al.	:	
Patent No. 5,672,535	:	ON PETITION
Issue date: September 30, 1997	:	
Application No.: 08/654,615	:	
Filed: May 29, 1996	:	
Attorney Docket No.: ALNC-3310	:	
For: METHOD OF FABRICATION DRAM	:	
CELL WITH SELF-ALIGNED CONTACT	:	

This is a decision on the petition, filed February 23, 2006 (certificate of mailing date February 21, 2006), under 37 CFR 1.377 as a petition to accept and record the 7 ½ year maintenance fee for the above-identified patent. In the alternative, petitioners request consideration under 37 CFR 1.182.

The petition under 37 CFR 1.377 is **GRANTED**.

The petition under 37 CFR 1.182 is **DISMISSED AS MOOT**.

The patent issued September 30, 1997. The 3 ½ year maintenance fee was timely paid. The 7 ½ year maintenance fee could have been paid without a surcharge from September 30, 2004 through March 31, 2005, or with a surcharge from April 1, 2005 through September 30, 2005. Office financial records indicate that the 7 ½ year maintenance was not paid. Therefore, the Office contended that this patent expired on October 1, 2005.

With the instant petition, patentees have shown that the Office had authorization to charge the second maintenance fee on March 19, 2005. Patentees have provided a date stamped post card receipt that states that a Maintenance Fee Transmittal form, Payment of Patent Maintenance Fee Form, a Change of Correspondence Address Form and a postcard were received in the Office on March 19, 2005. The return postcard constitutes *prima facie* evidence that the items listed thereon were filed on March 19, 2005. MPEP 503.

A review of the copy of the Maintenance Fee Transmittal submitted with the instant petition reveals that the Transmittal listed the proper identifiers for the patent and clearly authorized the Office to charge a \$2,300.00 maintenance fee. March 19, 2005 was within the window period for payment of the second maintenance fee. Patentees' deposit account had sufficient money to charge the maintenance fee when the deposit account should have been charged.

Pursuant to practitioner's authorization, deposit account no. 50-1703 will be charged the \$2,300.00 7 ½ year maintenance fee for the above-identified patent. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.377 is **granted**. The Office has accepted and recorded the second maintenance fee payment for the above-identified patent pursuant to 37 CFR 1.377.

The petition under 37 CFR 1.182 is **dismissed as moot**.

This patent file is being returned to the Files Repository.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley
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Office of Petitions